



Environmental Protection Act 1986

Hon Stephen Dawson MLC
Minister for Environment

MINISTER'S APPEAL DETERMINATION

APPEAL AGAINST DECISION OF THE ENVIRONMENTAL PROTECTION AUTHORITY NOT TO ASSESS A SMART DRUM LINE PROPOSAL GRACETOWN, SHIRE OF AUGUSTA-MARGARET RIVER

Purpose of this document

This document sets out the Minister's decision on an appeal lodged under section 100(1)(a) of the *Environmental Protection Act 1986* in objection to the EPA's decision not to assess a proposal. This document is produced by the Office of the Appeals Convenor for the Minister but is not the Appeals Convenor's own report, which can be downloaded from the Appeals Convenor's website at www.appealsconvenor.wa.gov.au.

Appellant:	Della Grunwald
Proponent:	Department of Primary Industries and Regional Development (DPIRD)
Proposal description:	Non-lethal trial of Shark Management Alert in Real Time (SMART) drum lines.
Minister's Decision:	The Minister dismissed the appeal.
Date of Decision:	20 February 2019

REASONS FOR MINISTER'S DECISION

Pursuant to section 106 of the *Environmental Protection Act 1986* (the Act), the Minister obtained a report from the Environmental Protection Authority (EPA) on the matters raised in the appeal. The Minister also received a report from the Appeals Convenor. The Appeals Convenor's report sets out the background and other matters relevant to the appeal.

The Minister noted that the appellant requested that the proposed trial of the use of SMART drum lines off the south-west coast be fully assessed by the EPA at the level of Public Environmental Review. In support of this request, the appeal set out a number of concerns with the proposal, including what the appellant described as a lack of information about the status of the white shark population, direct impacts to marine fauna, and indirect impacts through behavioural changes. In addition, the appeal cited public interest in the proposal, and community views on the protection of the environment, in support of the appellant's view that the proposal should be formally assessed by the EPA.

The Minister carefully considered the information the appellant provided, together with the advice of the EPA, DPIRD and the Appeals Convenor. On the basis of this information, and for the reasons that follow, the Minister concluded that risks to marine fauna from the trial are not likely to be significant, and as a result, the EPA's decision not to assess the proposal was justified.

The proposal considered by the EPA involves the capture, tagging, relocating and release of white sharks, and the deployment of acoustic receivers to better understand white shark movements following release. The Minister understood from the EPA that the SMART drum lines will be set and retrieved daily, and will be located approximately 500 metres offshore along an 11.5 kilometre stretch of coast off Gracetown, for a period of 15 months.

In relation to the status of white sharks, the species is listed as 'vulnerable' under both State and Commonwealth legislation. In response to the appeal, the EPA acknowledged that while there are uncertainties in the latest estimates about the white shark population off south-west Australia, the measures to be implemented as part of the trial will minimise any harm to marine life, including sharks. The EPA further noted that tagging sharks as part of the trial will further assist in providing data for population models, thereby improving knowledge about the status of the species.

In its consideration of direct impacts to marine fauna the EPA took into account the proponent's commitments to implement measures to minimise harm. The Minister understood in this regard that the vessel undertaking the activity will remain on standby for the duration of drum line deployment, to minimise the time that white sharks or bycatch are hooked. The rapid response time, use of circle hooks and external rather than internal tagging is expected to minimise the possibility of significant injury. The EPA also took into account the proponent's prior experience in shark tagging activities, and commitment to undertake training of the contractor during the first month of operation.

In relation to indirect impacts, including behavioural changes, caused by tagging of white sharks, the EPA acknowledged that both white shark predators and prey species may hear the sound emitted by tags attached to individuals tagged during the trial. However, the EPA advised that is not aware of any scientific studies that show either learned tracking behaviours in predators or avoidance behaviours in prey that would imply white sharks may face long-term welfare or behavioural changes. In this regard, the EPA noted that the method of tagging proposed in this case uses well established and internationally accepted protocols.

In its public advice on the proposal, the EPA expressed support for the proponent's commitment for ongoing consultation with the Ministerial Reference Group during the implementation of the trial. To further enhance the transparency aspects of the trial, the EPA also recommended that reviews and reports relating to the trial are made publicly available as soon as possible.

Taking into account the nature of the trial, including its intent, limited duration and scale and the proponent's mitigation measures to minimise harm to marine fauna, the Minister was of the view that the proposal is not so significant as to warrant formal assessment by the EPA, and its decision not to assess was therefore justified. It follows that the Minister dismissed the appeal.

Note: this decision is published pursuant to the terms of section 110 of the *Environmental Protection Act 1986* and regulation 8 of the *Environmental Protection Regulations 1987*.

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